

that correction is not warranted in whole or in part, the matter shall be brought to the attention of the Inspector General, if it pertains to records maintained by the Office of Inspector General, or to the attention of the General Counsel, if it pertains to other records. If, after review by the General Counsel or by the Inspector General and discussion with the requester if deemed helpful, it is determined that correction as requested is not warranted, a letter shall be sent by the Privacy Act Officer to the requester denying his request and/or explaining what correction might be made if agreeable to the requester. This letter shall set forth the reasons for the refusal to honor the request for correction. It shall also inform him of his right to appeal this decision and include a description of the appeals procedure set forth in paragraph (d) of this section. Such letter or notification that the desired correction will be made shall normally be sent within 30 working days of the receipt of a properly addressed request (or within 30 working days of the time the Privacy Act Officer becomes aware that a particular communication not addressed as prescribed above is a request for correction of a record under the Privacy Act).

(d) An appeal may be taken from an adverse determination under paragraph (c) of this section, to the Deputy Director of the Foundation. Such appeal must be made in writing and should clearly indicate that it is an appeal. The basis for the appeal should be included, and it should be mailed to the same address as listed in paragraph (a) of this section. A hearing at the Foundation may be requested. Such hearing will be informal, and shall be before the Deputy Director or his designee. If no hearing is requested, the request for appeal should include the basis for the appeal. Where no hearing is requested the Deputy Director shall render his decision within thirty working days after receipt of the written appeal at the Foundation unless the Director, for good cause shown, extends the 30-day period and the appellant is advised in writing of such extension. If a hearing is requested, then the Foundation will attempt to contact the appellant with-

in five working days and arrange a suitable time for the hearing. In such case the decision of the Deputy Director shall be made within 30 working days after the hearing unless the time is extended and the appellant is advised in writing of such extension.

(e) The final decision of the Deputy Director in an appeal shall be in writing and, if adverse to the appellant, set forth the reasons for the refusal to amend the record and advise him of his right to appeal the decision under 5 U.S.C. 552a(g)(1)(A). The individual shall also be notified that he has the right to file with the Foundation a concise statement setting forth the reasons for his disagreement with the refusal of the Foundation to amend his record.

[40 FR 44510, Sept. 26, 1975, as amended at 42 FR 8639, Feb. 11, 1977; 56 FR 47417, Sept. 19, 1991; 59 FR 37438, July 22, 1994]

#### **§ 613.5 Disclosure of records to agencies or persons other than the individual to whom the record pertains.**

Records subject to the Privacy Act that are requested by any person other than the individual to whom they pertain will not be made available except under the following circumstances:

(a) Records required to be made available by the Freedom of Information Act will be released in response to a request formulated in accordance with NSF regulations found at 45 CFR part 612.

(b) Records not required by the Freedom of Information Act to be released may be released, at the discretion of the Foundation, if the written consent of the individual to whom they pertain has been obtained or if such release would be authorized under 5 U.S.C. 552a(b)(1) or (3) through (11).

#### **§ 613.6 Exemptions.**

(a) *Fellowships and other support.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(d) any materials which would disclose the identity of references of fellowship applicants or reviewers of applicants for Federal contracts (including grants and cooperative agreements) contained in any of the following systems of records: (1)

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Fellowship and Traineeship Filing System, (2) Applicants to Committee on the Challenges of Modern Society Fellowship Program (NATO), and (3) Principal Investigator/Proposal File and Associated Records.

(b) *Applicants for Employment.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(d) any materials which would disclose the identity of references of applicants for employment at NSF contained in the system of records entitled "Official Personnel Folders."

(c) *OIG Files Compiled for the Purpose of a Criminal Investigation and for Related Purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the Foundation hereby exempts the system of records entitled "Office of Inspector General Investigative Files," insofar as it consists of information compiled for the purpose of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

(d) *OIG Files Compiled for Other Law Enforcement Purposes.* Pursuant to 5 U.S.C. 552a(k)(2), the Foundation hereby exempts the systems of records entitled "Office of Inspector General Investigative Files," insofar as it consists of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

[40 FR 44510, Sept. 26, 1975, as amended at 53 FR 42951, Oct. 25, 1988; 55 FR 12645, Apr. 5, 1990]

## PART 614—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS OF THE NATIONAL SCIENCE BOARD

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AUTHORITY: Government in the Sunshine Act, sec. 552b of title 5, U.S.C.; 90 Stat. 1241.

SOURCE: 42 FR 14719, Mar. 16, 1977, unless otherwise noted.

### § 614.1 General rule.

Except as otherwise provided in these regulations, every portion of every meeting of the National Science Board will be open to public observation.

### § 614.2 Grounds for closing meetings.

(a) The National Science Board may by record vote close any portion of any meeting if it properly determines that an open meeting:

(1) Is likely to disclose matters that (i) are specifically authorized under criteria established by Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order;

(2) Is likely to relate solely to the internal personnel rules and practices of the National Science Foundation;

(3) Is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That the statute (i) requires in such a manner as to leave no discretion on the issue that the matters be withheld from the public, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Is likely to involve accusing any person of a crime, or formally censuring any person;

(6) Is likely to disclose personal information where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such records, but only to the extent provided in 5 U.S.C. 552b(c)(7);

(8) Is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;